

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NORTH DAKOTA

In re:

DRAIN SERVICES, INC.,  
  
Debtor.

Case No. 23-30352  
Chapter 11

**UNITED STATES' (SBA) CONDITIONAL  
OBJECTION TO MOTION FOR LEAVE  
TO USE CASH COLLATERAL**

The United States of America, by Mac Schneider, United States Attorney for the District of North Dakota, and Kent Rockstad, Assistant United States Attorney, on behalf of the Small Business Administration (SBA) (United States), conditionally objects to the Debtor's Motion for Leave to Use of Cash Collateral dated October 2, 2023 (Motion). (Doc. 8).

**Background**

In 2022 the Debtor received a loan from the SBA in the amount of \$497,500.00. As of the date of the petition, the outstanding balance of the loan was \$527,810.02. The debt owed to SBA is secured by a security interest in chattel property, including deposit accounts.

The property described in the Debtor's Motion is encumbered by SBA's security interest.

The Court held a preliminary hearing on October 6, 2023. At the hearing, the Debtor agreed to grant replacement liens to the United States (SBA and IRS) and Choice Financial Group. The Court entered its Order Granting Interim Relief on Motion for Leave to Use Cash Collateral (Order). (Doc. 33). The Order authorized the use of up to

\$20,000.00, and it provided the United States and Choice Financial Group with replacement liens against the Debtor's post-petition cash.

**Conditional Objection**

At this final hearing stage, the Debtor presumably seeks authority to use cash collateral in excess of the \$20,000 it was authorized to use following the preliminary hearing. The United States submits that the debtor's continued use of cash collateral should be subject to the same conditions that applied to the debtor's use of the first \$20,000. The United States consents to Debtor's continued use of cash collateral so long as its use is conditioned on an immediate grant and perfection of replacement liens in post-petition cash. To the extent the Debtor opposes the granting of replacement liens in post-petition cash, the United States objects.

Under the facts of this case, the equity cushion is not certain; it is speculative and substantially contingent upon the collectability of accounts receivable. Equity cushion alone does not adequately protect the security interest held by the United States.

Dated: October 13, 2023

By: MAC SCHNEIDER  
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/s/ Kent Rockstad  
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### **CERTIFICATE OF SERVICE**

I hereby certify that on October 13, 2023, the **UNITED STATES' (SBA) CONDITIONAL OBJECTION TO MOTION FOR LEAVE TO USE CASH COLLATERAL** was filed electronically with the Clerk of Court through ECF, and that ECF will send a Notice of Electronic Filing (NEF) to the following:

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Margo M. Kern, Secretary  
Office of the United States Attorney